

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LAMARION RIVERA, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LUIS RIVERA,

Respondent-Appellant,

and

MARY WATKINS,

Respondent.

UNPUBLISHED

July 1, 2008

No. 282736

Kent Circuit Court

Family Division

LC No. 06-052452-NA

Before: Meter, P.J., and Smolenski and Servitto, JJ.

PER CURIAM.

Respondent, Luis Rivera, appeals as of right from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without the benefit of a brief from appellee.

This Court reviews a trial court's decision to terminate parental rights for clear error. *In re Sours*, 459 Mich 624, 633: 593 NW2d 520 (1999); MCR 3.977(J). If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, the trial court must terminate respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

Respondent does not argue that the statutory grounds for termination were not met by clear and convincing evidence, but only that the trial court erred in its best interests determination. The trial court determined that the best interests of the minor child would be served by termination of respondent's parental rights based on testimony regarding respondent's poor prognosis to improve his parenting skills and the young child's need for stability. The minor child had been in foster care for more than a year at the time of the termination trial.

Respondent had cognitive and physical limitations as the result of brain damage that had occurred after a stroke or blood clot. All of the individuals who testified at trial stated that respondent was a very nice man, that he did his best to comply with the requirements of the parent agency agreement, that he would not do anything to intentionally harm the minor child, that he visited the minor child consistently, that he loved the minor child, and that he and the minor child had a bond. The witnesses were consistent in their opinions, however, that respondent would be unable to have the minor child in his custody and provide appropriate care. Respondent was provided services to address his parenting skills, but he was unable to significantly improve so that he could parent the minor child. Clearly, this occurred solely because of respondent's physical and mental limitations. Unfortunately, these limitations were significant and were not limitations that would significantly improve over time. Respondent's limitations made it difficult to care for himself and meet his own daily needs much less have the responsibility of caring for a young child.

Dr. Spahn, the fully licensed psychologist who performed a court-ordered psychological evaluation, testified that respondent had an IQ of 56, which is considered severe cognitive impairment. Dr. Spahn opined that respondent would have trouble parenting a child because of these intellectual limitations. Dr. Spahn was concerned that respondent would not understand that there was a problem when one existed. In addition, his limited language skills would prohibit him from explaining the problem accurately if he did try to obtain help. Dr. Spahn did not believe that respondent would injure the child during supervised visitation, but did not believe respondent could be the child's custodial parent. Dr. Spahn was very clear that he felt that the minor child would be at risk of harm if respondent were the custodial parent and explicitly stated that he very seldom made that statement with regard to a parent.

Despite the bond between respondent and the minor child, the love that respondent had for the minor child, how hard respondent tried, and how much he wanted to have custody of the minor child, he could not provide the minor child with a safe, stable, stimulating, and nurturing environment in which to be raised so that the child could grow and flourish. The trial court did not err in determining that the child's best interests did not preclude termination of respondent's parental rights.

Affirmed.

/s/ Patrick M. Meter
/s/ Michael R. Smolenski
/s/ Deborah A. Servitto